

Served: April 17, 1992

NTSB Order No. EA-3548

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 15th day of April, 1992

BARRY LAMBERT HARRIS,
Acting Administrator,
Federal Aviation Administration,

Complainant,

SE-12396

v.

ARTURO LEBRON, JR.,

Respondent.

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed in this proceeding because it was not, as required by Section 821.57 of the Board's Rules of Practice, 49 CFR Part 821, perfected by the filing of a timely appeal brief.¹ We will grant the motion, to which no answer providing reasons for the failure to file has been received.²

¹Section 821.57(b) provides, in pertinent part, as follows:

"§821.57 **Procedure on appeal.**

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(b) Briefs and oral argument. Within 5 days after the filing of the notice of appeal, the appellant shall file a brief with the Board and serve a copy upon the other parties. Within 10 days after service of the appeal brief, a reply brief may be filed with the Board in which case a copy shall be served upon the other parties...."

²A response to the motion to dismiss was filed by respondent's counsel of record. He advises that he told respondent that he would take no further action in the proceeding on respondent's behalf after filing the notice of appeal. The

The record establishes that respondent, by counsel, filed a timely notice of appeal from the oral initial decision the law judge rendered in this emergency revocation proceeding on February 25, 1992.³ Respondent did not, however, by counsel or on his own behalf, file an appeal brief within 5 days after that date, and the record does not disclose any justification or good cause for his failure to meet the filing deadline. Dismissal of his appeal is therefore warranted. See Administrator v. Hooper, NTSB Order EA-2781 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted, and
2. The respondent's appeal is dismissed.

COUGHLIN, Acting Chairman, LAUBER, KOLSTAD, HART, and HAMMERSCHMIDT, Members of the Board, concurred in the above order.

(..continued)
response asks that respondent be permitted to file an appeal brief, but volunteers no explanation for respondent's having himself failed to file one on time.

³The law judge affirmed an order of the Administrator revoking respondent's airframe and powerplant mechanic certificate with inspection authorization for his alleged violations of sections 43.12(a)(1) and (3) of the Federal Aviation Regulations, 14 CFR Part 43.